

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

10 CESARIO VIZCARRA MEDINA,
11 Plaintiff,
12 v.
13 JOE LUIS, *et al.*,
14 Defendants.

Case No. 1:22-cv-00764-KES-EPG (PC)

ORDER AMENDING CAPTION

16 For the reasons stated below, the Court directs the Clerk of Court to amend the caption
17 of this case and terminate a Doe defendant and a defendant erroneously added through an
18 attorney-filing error.

19 Plaintiff Cesario Vizcarra Medina is a state prisoner proceeding *pro se* in this civil
20 rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff commenced this action by filing a
21 complaint on June 22, 2022 (ECF No. 1). Plaintiff alleged that Investigative Services Unit
22 (ISU) officer(s) broke his arm and that he was not being provided with constitutionally
23 adequate treatment for his broken arm. (*See generally* ECF No. 1; ECF No. 6 at 1). In his
24 complaint, Plaintiff named as defendants California Department of Corrections and
25 Rehabilitation (CDCR); Connie Gipson, Director of CDCR; Ken Clark, Warden at Corcoran
26 State Prison (CSP); Chief Medical Officer at CSP; Gavin Newsom, Governor of California; and
27 Does 1–100 as defendants. (ECF No. 1 at 1, 2; ECF No. 6 at 4).

1 The Court screened Plaintiff's complaint on September 30, 2022, and found that only
2 Plaintiff's Eighth Amendment excessive force claim against Doe ISU Officers 1–3 should
3 proceed past screening and that all other claims and defendants should be dismissed. (ECF No.
4 6 at 10). The Court gave Plaintiff option to proceed on the cognizable claim, file an amended
5 complaint, or stand on his original complaint. (*Id.* at 11). Plaintiff then filed a notice on October
6 13, 2022, indicating that he wanted to proceed only on his cognizable claim. (ECF No. 7).

7 Accordingly, on October 17, 2022, the Court issued findings and recommendations,
8 recommending that all claims and defendants be dismissed, except for Plaintiff's Eighth
9 Amendment excessive force claim against Doe ISU Officers 1–3. (ECF No. 9 at 2). The district
10 judge adopted these findings and recommendations in full in an order issued on June 1, 2023,
11 holding that “[a]ll claims and Defendants are dismissed, except for Plaintiff's Eighth
12 Amendment excessive force claim against Doe ISU Officers 1–3.” (ECF No. 23 at 2). The
13 same order directed the Clerk of Court “to reflect the dismissal of Defendants CDCR, Gipson,
14 and Clark on the Court's docket, and to add Defendants Doe ISU Officer 1, Doe ISU Officer 2,
15 and Doe ISU Officer 3.” (*Id.*)

16 Since “all other defendants” were dismissed, this Order also dismissed Gavin Newsom,
17 Governor of California. However, it does not appear that Newsom was listed in the caption on
18 Court's docket when the complaint was first filed. To prevent any confusion in subsequent
19 proceedings or on appeal and to accurately reflect the procedural posture of this case, the Court
20 will order the Clerk of Court to add Gavin Newsom as a defendant and then terminate him with
21 an effective date of June 1, 2023.

22 In addition, on November 21, 2023, the Court granted Plaintiff's motion to substitute
23 two of Doe Defendants with Joe Luis and Anthony Arisco. (ECF No. 39). Two of the Doe
24 Defendants were terminated accordingly. (*Id.* at 2). The Court also granted Plaintiff leave to
25 file an amended complaint within 60 days of that order, if he chose to add additional claims and
26 defendants. (*Id.*) That time has lapsed, and Plaintiff has not filed an amended complaint.
27 Accordingly, Defendant “Doe ISU Officer 3” should be terminated from this action as
28 superfluous.

1 Finally, a defendant “Appearance Special” was added through an attorney filing error
2 on October 16, 2023. (ECF No. 29). The entry of this defendant is an error and this defendant
3 should be terminated from this action.

4 The only remaining Defendants in this case are Joe Luis and Anthony Arisco.

5 Accordingly, **IT IS ORDERED:**

6 1) The Clerk of Court is directed to add Gavin Newsom as a defendant and to
7 reflect his termination as of June 1, 2023;
8 2) The Clerk of Court is directed to terminate defendants “Doe ISU Officer 3” and
9 “Appearance Special” from the docket;
10 3) That the caption of this case be changed to read as follows and all future filings
11 shall refer to this case as *Medina v. Luis, et al.*:

12 CESARIO VIZCARRA MEDINA, Case No. 1:22-cv-00764-KES-EPG (PC)

13 Plaintiff,

14 v.

15 JOE LUIS, *et al.*,

16 Defendants.

17 IT IS SO ORDERED.

18 Dated: May 29, 2024

19 /s/ *Eric P. Guay*
20 UNITED STATES MAGISTRATE JUDGE